

Notice of Allowability

Application No.

10/758,473

Examiner

NGOC V. DINH

Applicant(s)

TIERNEY ET AL.

Art Unit

2189

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 03/22/2007.
2. ☒ The allowed claim(s) is/are 1 and 3-34 (renumbered as 1, 2-33).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 04/17/2007 | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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DETAILED ACTION

1. This office action is a response to the amendment filed on 03/22/2007.

Claims 2, 35 are canceled. Claims 1-2, 24, 29, 33 are amended.

INFORMATION DISCLOSURE STATEMENT

2. The Applicant's submission of the IDS filed 04/17/2007 have been considered. As required by M.P.E.P. 609 C(2), a copy of the PTOL-1449 is attached to the instant office action.

Examiner's Amendment

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Gary Pitzer (Reg. 39,334) on March 13, 2007.

In the claim section:

Claim 3, line 1, replace "2" with -- 1 --.

Claim 31, line 2, insert -- the -- before "owner".

Claim 32, line 2, insert -- the -- before "owner".

Reasons For Allowance

4. The primary reasons for allowance of claim 1 in the instant application is the combination with the inclusion of at least the limitations set forth in lines 6-7 of claim 1.

The primary reasons for allowance of claim 13 in the instant application is the combination with the inclusion of at least the limitations set forth in lines 7-10 of claim 13.

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The primary reasons for allowance of claim 24 in the instant application is the combination with the inclusion of at least the limitations set forth in lines 3-4 of claim 24.

The primary reasons for allowance of claim 29 in the instant application is the combination with the inclusion of at least the limitations set forth in lines 5-8 of claim 29.

The primary reasons for allowance of claim 33 in the instant application is the combination with the inclusion of at least the limitations set forth in lines 12-16 of claim 33.

Because claims 3-12, 14-23, 25-28, 30-34 depend directly or indirectly on claims 1, 13, 24, 29. These claims are considered allowable for at least the same reasons noted above.

Conclusion

5. Any response to this action should be mailed to:

Under Secretary of Commerce for intellectual Property and Director of the
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

or faxed to:

(571) 273-8300, (for Official communications intended for entry).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published Applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pak-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc Dinh whose telephone number is (571) 272-4191. The examiner can normally be reached on Monday-Friday 8:30 AM-5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reginald Bragdon, can be reached on (571) 272-4204.

NR

NGOC DINH

April 23, 2007

Reginald S. Bragdon

REGINALD BRAGDON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100